




UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,874	09/29/2003	Jerry R. Hill	TKG4166	4644
7590	09/09/2004		EXAMINER	
Sean A. Kaufhold P.O. Box 131447 Carlsbad, CA 92013			NGUYEN, SON T	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/672,874	Applicant(s) HILL, JERRY R.	
	Examiner Son T. Nguyen	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 12 is/are allowed.
6) ☒ Claim(s) 1-11 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1,3-11** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3162920 (herein 920) in view of US 5137324 (herein 324).

For claim 1, 920 discloses a securing device that is capable of being used for selectively preventing movement of a rose protective covering, said device including: a flexible panel 10, said panel having a top side, a bottom side, and a peripheral edge; a plurality of elongate members 12,20 each having an attached end attached to said peripheral edge and a free end extending away from said panel; a plurality of spikes 18, each of said spikes being attached to one of said free ends of said elongate members; and wherein said bottom side of said panel may be abutted against an upper side of the protective covering and said spikes driven into a ground surface such that said device secures the protective covering to the ground surface. However, 920 is silent about said peripheral edge comprising an elastomeric loop. 324 teaches a securing device that is also capable of being used for selectively preventing movement of a rose protective covering, the device including a flexible panel 10 having a peripheral edge 18 comprising an elastomeric loop 24. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an elastomeric loop as

Art Unit: 3643

taught by 324 around the peripheral edge of the flexible panel of 920 in order to allow the securing device the flexibility to stretch and cover beyond its boundary.

For claim 3, in addition to the above, 324 further teaches a portion (end portions of refs. 28 & 30) of said panel positioned within said peripheral edge comprises a resiliently elastic mesh material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a portion of the panel positioned within said peripheral edge comprises a resiliently elastic mesh material as taught by 324 in the securing device of 920 as modified by 324 in order to allow the securing device the flexibility to stretch and cover beyond its boundary.

For claim 4, 920 as modified by 324 (emphasis on 920) further discloses wherein said elongate members are spaced from each other (see fig. 1 or fig. 2).

For claim 5, 920 as modified by 324 (emphasis on 920) further discloses wherein each of said elongate members is flexible.

For claim 6, 920 as modified by 324 (emphasis on 920) further discloses wherein each of said elongate members is resiliently elastic.

For claim 7, 920 as modified by 324 (emphasis on 920) further discloses wherein said plurality of elongate members including at least four elongate members.

For claim 8, 920 as modified by 324 (emphasis on 920) further discloses wherein each of said elongated members is flexible.

For claim 9, 920 as modified by 324 (emphasis on 920) further discloses wherein each of said elongate members is resiliently elastic.

Art Unit: 3643

For claim 10, 920 as modified by 324 (emphasis on 920) further discloses wherein said plurality of elongate members including at least four elongate members.

For claim 11, see the above claims for explanation.

Allowable Subject Matter

3. **Claim 12** is allowed.

Response to Arguments

4. Applicant's arguments with respect to claims 1,3-12 have been considered but are moot in view of the new ground(s) of rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.



Son T. Nguyen
Primary Examiner, GAU 3643
September 4, 2004